



DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 57

[TD 9881]

RIN 1545-BN57

Electronic Filing of the Report of Health Insurance Provider Information

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations amending the Health Insurance Providers Fee regulations to require certain covered entities engaged in the business of providing health insurance for United States health risks to electronically file Form 8963, “Report of Health Insurance Provider Information.” These final regulations affect those entities.

DATES: Effective Date. These regulations are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: David Bergman, (202) 317-6845 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations in Title 26 of the Code of Federal Regulations under section 9010 of the Patient Protection and Affordable Care Act (PPACA), Public Law 111-148, 124 Stat. 119 (2010), as amended by section 10905 of

PPACA, and as further amended by section 1406 of the Health Care and Education Reconciliation Act of 2010, Public Law 111-152 (124 Stat. 1029 (2010)) (collectively, the Affordable Care Act or ACA). The final regulations provide guidance on the annual fee imposed on covered entities engaged in the business of providing health insurance for United States health risks, and affect persons engaged in the business of providing health insurance for United States health risks.

On December 9, 2016, the Treasury Department and the IRS published a notice of proposed rulemaking (REG-123829-16) in the **Federal Register**, 81 FR 89020, containing proposed regulations that would amend section 57.3(a)(2) of the Health Insurance Providers Fee regulations to provide that a covered entity (including a controlled group) reporting on a Form 8963 or corrected Form 8963 more than \$25 million in net premiums written must electronically file the forms after December 31, 2017. Forms 8963 reporting \$25 million or less in net premiums written are not required to be electronically filed. The proposed regulations also provided that if a Form 8963 or corrected Form 8963 is required to be filed electronically, any subsequent Form 8963 filed for the same fee year must also be filed electronically, even if the subsequently filed Form 8963 reports \$25 million or less in net premiums written. In addition, the proposed regulations provided that a failure to electronically file would be treated as a failure to file for purposes of section 57.3(b).

No comments were received in response to the notice of proposed rulemaking. No public hearing was requested or held. This Treasury Decision adopts the proposed regulations with no substantive change other than the applicability date. The rationale provided in the Explanation of Provisions section of the notice of proposed rulemaking

applies equally to these final regulations. The electronic filing requirement will begin in the 2020 fee year because the fee will not be collected in 2019.

Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and the Office of Management and Budget regarding review of tax regulations. It is hereby certified that the electronic filing requirement would not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The rule is expected to affect primarily larger entities because the electronic filing requirement is only imposed if the filer must report more than \$25 million in net premiums. Small entities are unlikely to report more than \$25 million in net premiums, and the rule contains a specific exemption from the electronic reporting requirement for covered entities that report \$25 million or less in net premiums written. Accordingly, this rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact on small business, and no comments were received.

Drafting Information

The principal author of these regulations is David Bergman of the Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects in 26 CFR Part 57

Health insurance, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 57 is amended to read as follows:

PART 57—HEALTH INSURANCE PROVIDERS FEE

Paragraph 1. The authority citation for 26 CFR part 57 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 57.3 is amended by revising paragraph (a)(2) to read as follows:

§57.3 Reporting requirements and associated penalties.

(a) * * *

(2) Manner of reporting---(i) In general. The IRS may provide rules in guidance published in the Internal Revenue Bulletin for the manner of reporting by a covered entity under this section, including rules for reporting by a designated entity on behalf of a controlled group that is treated as a single covered entity.

(ii) Electronic Filing Required. Any Form 8963 (including corrected forms) filed pursuant to paragraph (a)(1) of this section and reporting more than \$25 million in net premiums written must be filed electronically in accordance with the instructions to the form. If a Form 8963 or corrected Form 8963 is required to be filed electronically under

this paragraph (a)(2)(ii), any subsequently filed Form 8963 filed for the same fee year must also be filed electronically. For purposes of §57.3(b), any Form 8963 required to be filed electronically under this section will not be considered filed unless it is filed electronically.

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Par. 3 Section 57.10 is amended by revising the section heading, paragraph (a) and adding paragraph (c) to read as follows:

§57.10 Applicability date.

(a) Except as provided in paragraphs (b) and (c) of this section, §§ 57.1 through 57.9 apply to any fee that is due on or after September 30, 2014.

* * * * *

(c) Section 57.3(a)(2)(ii) applies to Forms 8963, including corrected Forms 8963, filed after December 31, 2019.

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

Approved: October 29, 2019.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

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